

REMARKS

In the Office Action, the Examiner indicated that claims 1 through 37 are pending in the application and the Examiner rejected all claims.

Claim Rejections, 35 U.S.C. §112

On page 2 of the Office Action, the Examiner rejected claims 1-26 under 35 U.S.C. §112, second paragraph. Claims 1 and 14 have been amended to remove the conditional statement objected to by the Examiner. While applicant does not agree that the failure to recite both conditions in a conditional statement necessarily renders a claim indefinite, applicant has removed the objected-to element for the purpose of furthering prosecution. The Examiner is respectfully requested to reconsider and withdraw the rejection of the claims under 35 U.S.C. §112.

Rejection of Claims under 35 U.S.C. §103(a)

On page 3 of the Office Action, the Examiner rejected claims 1, 6, 7, 14, 19, 20, 27, 32, and 33 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,960,411 to Hartman et al. ("Hartman"). Further, on page 4 of the Office Action, the Examiner rejected claims 2-5, 10-13, 15-18, 23-26, 28-31, and 35-37 under 35 U.S.C. § 103(a) as being unpatentable over Hartman et al. in view of Official Notice.

The Present Invention

The present invention provides a method and system for providing improved online comparison shopping from among two or more vendors. The claimed system is a front-end ordering system for two or more vendors. The present invention allows a customer to purchase a list of items from one or more of the vendors supported by the system of the present invention. The goal of the present invention is to place an optimal or near-optimal order by ordering each item from a specific vendor of the system.

Particularly, the system of the present invention compiles a shopping list for the user which identifies specific items that the user wishes to purchase, such as the name of the product, manufacturer, model number, etc. Then the system allows the user to specify certain optimization criteria (shopping criteria) for obtaining an optimal shopping order based on the user's shopping list. Examples of the optimization criteria can include, but are not limited to, the lowest total cost including any tax and/or shipping charges, vendor preferences or dislikes, vendor shipment methods, delivery speed, etc.

Based on the user-specified optimization criteria and any optimization criteria pre-set by the system, the system optimizes the user's shopping list to produce an optimal shopping order using existing optimization techniques or programs. That is, the system is configured to generate automatically a single purchase order for purchasing all items on the shopping list, wherein the order satisfies the optimization criteria set by the user and the system. This optimization shopping order will identify a vendor for each of the items on the shopping list, from among the multiple vendors. The user is able to modify the generated optimal shopping

order to reflect any last minute changes by the user. In certain situations, the system may be unable to generate an optimal shopping order because, e.g., no online vendors offer certain items on the shopping list. In these cases, the user is notified of the optimization failure and the system can be configured to re-attempt the optimization process (e.g., after a certain time period) until an optimal shopping order is generated.

If the user approves the optimal shopping order, the shopping order is processed according to known techniques. For example, the shopping order is sent to specific vendors so that shipments of the items identified in the shopping order can be made. Each vendor system is configured to transmit their shipment tracking information to the present system. Then the user can view and monitor this shipment tracking information for all items in the shopping order from one website.

U.S. Patent No. 5,960,411 to Hartman et al.

U.S. Patent No. 5,960,411 to Hartman et al. ("Hartman") teaches a method and system for placing an order to purchase an item via the Internet. Rather than identifying an optimal shopping order from a shopping list, involving multiple vendors, Hartman teaches the optimization of shipping from a single vendor. The portion of Hartman relied upon by the Examiner, column 5, lines 27-55, illustrates a situation wherein a customer makes a first purchase from vendor A, and then makes a second purchase from vendor A. If both items are available, or are available within a predetermined period of time (e.g., if item A is available in two days, and item B is available in three days), then the system of Hartman will optimize the

shipping by delaying the shipping of item A until item B is also available, and then ship the two together. This can result in reduced shipping costs for the customer.

The Examiner has not Established a *prima facie* Case of Obviousness

As set forth in the MPEP:

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combine reference teachings.

MPEP 2143

As noted above, the present invention provides the ability to comparison shop from among two or more vendors using a website. A shopping list is compiled, and then optimization criteria are specified by the user. The offerings of the multiple vendors are then compared to the shopping list and, based upon the optimization criteria, vendors are selected from among the multiple vendors to fulfill the order. Prior to fulfillment of the order, the optimal shopping order (the list of the various vendors and the items being supplied by each vendor) are displayed to the user. Comparison as between multiple vendors and the optimization of the shopping list to produce an optimal shopping order fulfillable by the multiple vendors is expressly claimed in each of the independent claims.

Nothing in Hartman teaches or suggests the comparison, from among multiple vendors, of the shopping list of a customer and then, based on optimization criteria supplied by the customer, the preparation and display of an optimized shopping order fulfillable by one or more of the vendors. Hartman merely teaches the optimization of shipping from a single

vendor based upon the availability of purchased items. While this is a helpful feature, it is patentably distinct from the claimed invention.

Since Hartman lacks any teaching or suggestion of the claimed invention, the rejection of claims 1, 6, 7, 14, 19, 20, 27, 32, and 33 under 37 U.S.C. § 103 based upon Hartman is inappropriate. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1, 6, 7, 14, 19, 20, 27, 32, and 33 under 37 U.S.C. § 103.

To help the Examiner understand the benefits of the present invention, the following example illustrates the benefits of the present invention, the problems that it solves, and why Hartman does not solve or address this issue. The present invention is a system that acts as a front-end ordering system for two or more vendors. The present invention allows a customer to purchase a list of items from one or more of the vendors supported by a system in accordance with the present invention. The goal is to place an optimal or near-optimal order by ordering each item from a specific vendor of the system. For example, if we suppose that the customer supplies a list of two items consisting of item 1 and item 2, and the system supports two vendors, vendor A and vendor B, one possible way of placing the order would be to order item 1 from vendor A and item 2 from vendor B. Another way would be to order both item 1 and item 2 from vendor A. As can be seen, there are multiple ways in which the item may be ordered from the vendors in accordance with the present invention.

The multiple options for assigning items to the vendors are “potential orders”. The number of potential orders may be quite large. For example, consider a system in accordance with the present invention that supports ten vendors. For a list of one item, there are simply

10^1 = ten potential orders. For two items, the number of potential orders is $10^2 = 100$, for three items the number is $10^3 = 1,000$, for ten items the number is $10^{10} = 10,000,000,000$, etc. As can be seen, the number of potential orders grows very quickly, even for reasonably small numbers of items and vendors.

In general, it is not possible to examine all potential orders in order to find the “best” order. Classic optimization is the field of study for finding optimal and near-optimal solutions to this type of problem. The basis of the present invention is the application of classic optimization to the ordering of a list of items from a set of two or more vendors. None of this is taught or suggested by Hartman.

Regarding the Examiner’s rejection of claims 2, 3, 4, 5, 10-13, 15-18, 23-26, 28-31, and 35-37 under 35 U.S.C. §103 as being unpatentable over Hartman et al. in view of Official Notice, applicant submits that the fact that “what if” scenarios are known does not render the present claims obvious. As noted above, Hartman does not teach or suggest a system or technique whereby the offerings of multiple vendors are analyzed to see if they can fulfill an optimal shopping list, based upon optimization criteria provided by the customer. The ability to perform what-if scenarios has no bearing on these claimed elements and thus does not render the claims obvious. Accordingly, for the reasons set forth above, claims 2, 3, 4, 5, 10-13, 15-18, 23-26, 28-31, and 35-37 patentably define over Hartman and the “Official Notice” taken by the Examiner, both alone or in combination. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 2, 3, 4, 5, 10-13, 15-18, 23-26, 28-31, and 35-37 under 35 U.S.C. §103.

Applicant notes that no basis for rejection is given for claim 34. Since claim 34 depends from a rejected base claim, while its status as being rejected is clear, it is unclear whether or not claim 34 would be allowable if rewritten in independent form. The Examiner is respectfully requested to clarify the status of claim 34.

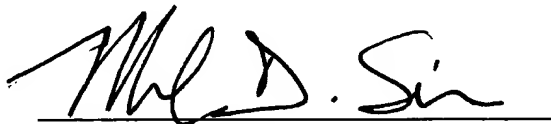
Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

Enclosed herewith, in duplicate, is a Petition for extension of time to respond to the Examiner's Action, along with a Credit Card Payment Authorization Form in payment of the extension fee. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 19-5425.

Respectfully submitted

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Date


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